



October 5, 1999

Mr. Alberto J. Pena  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR99-2826

Dear Mr. Pena:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129672.

The City of San Antonio Fire Department (the "department") received a request for information from the personnel file of a fire fighter. Specifically, the requested information consists of documents relating to complaints filed by the fire fighter against members of his chain of command. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception your claim and reviewed the submitted information.

Section 552.101 of the act excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Assuming that the City of San Antonio is a "civil service municipality," section 143.089 of the Local Government Code is applicable. Section 143.089(g) provides:

A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

In *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 916 (Tex. App.--Austin 1993, writ denied), the court addressed a request for information contained in a police officer's personnel file maintained by the city police department for its use and addressed the applicability of section 143.089(g) to that file. The records included in the personnel file related to complaints against the police officer for which no disciplinary action was taken. The court determined that section 143.089(g) made these records confidential. *Id.* at 949. You assert that the investigation of the fire fighter's complaints did not result in disciplinary actions. Therefore, information maintained by the department which relates to an investigation that does not result in disciplinary action must be withheld from required public disclosure under section 552.101 of the act in conjunction with section 143.089(g) of the Local Government Code.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ch

Ref: ID# 129672

Encl. Submitted documents

cc: Ms. Martha P. Owen  
Wiseman, Durst & Owen  
1004 West Avenue  
Austin, Texas 78701-2019  
(w/o enclosures)

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<sup>1</sup>We note that section 143.089(g) requires a fire department that receives a request for information maintained in a file under section 143.089(g) to refer that person to the civil service director or the director's designee.